

# OPEN MEETING ITEM

ORIGINAL

COMMISSIONERS  
KRISTIN K. MAYES – Chairman  
GARY PIERCE  
PAUL NEWMAN  
SANDRA D. KENNEDY  
BOB STUMP



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EXECUTIVE DIRECTOR

## ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

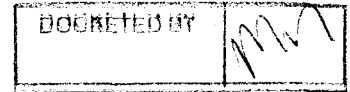
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NOV - 2 2009

DATE: NOVEMBER 2, 2009

DOCKET NOS.: W-02353A-09-0328 and W-02353A-09-0329

TO ALL PARTIES:



Enclosed please find the recommendation of Administrative Law Judge Yvette B. Kinsey. The recommendation has been filed in the form of an Opinion and Order on:

PARK WATER COMPANY, INC.  
(RATES/FINANCE)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

NOVEMBER 12, 2009

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

NOVEMBER 19, 2009 and NOVEMBER 20, 2009

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

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1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 KRISTIN K. MAYES - Chairman  
4 GARY PIERCE  
5 PAUL NEWMAN  
6 SANDRA D. KENNEDY  
7 BOB STUMP

8 IN THE MATTER OF THE APPLICATION OF  
9 PARK WATER COMPANY, INC. FOR AN  
10 EMERGENCY RATE INCREASE.

DOCKET NO. W-02353A-09-0328

11 IN THE MATTER OF THE APPLICATION OF  
12 PARK WATER COMPANY, INC. FOR  
13 APPROVAL OF A FINANCING APPLICATION.

DOCKET NO. W-02353A-09-0329

14 DECISION NO. \_\_\_\_\_

15 **OPINION AND ORDER**

16 DATE OF HEARING: September 3, 2009

17 PLACE OF HEARING: Phoenix, Arizona

18 ADMINISTRATIVE LAW JUDGE: Yvette B. Kinsey

19 APPEARANCES: Ms. Patricia O'Connor, on behalf of Park Water  
20 Company, Inc.; and

21 Mr. Kevin Torrey, Staff Attorney, Legal Division, on  
22 behalf of the Utilities Division of the Arizona  
23 Corporation Commission.

24 **BY THE COMMISSION:**

25 On June 26, 2009, Park Water Company, Inc. ("Park Water" or "Applicant" or "Company")  
26 filed with the Arizona Corporation Commission ("Commission") an application seeking approval for  
27 authority to obtain a Water Infrastructure Finance Authority ("WIFA") loan in the amount of  
28 \$169,819, to deepen the Company's existing well and upgrade its water pressure system.

On June 29, 2009, the Applicant filed an application with the Commission requesting an  
emergency interim rate surcharge due to a recent water outage, which required the Company to incur  
costs of \$28,244 related to cleaning the well, repairing the pump, and hauling water to customers  
during the outage. The Company's application indicates that due to its narrow operating margin, and

1 its need to upgrade its existing well, storage, and distribution system, an interim monthly surcharge is  
2 needed.

3 On July 15, 2009, by Procedural Order, a procedural conference was scheduled for July 22,  
4 2009.

5 On July 22, 2009, a procedural conference was held as scheduled, with the Commission's  
6 Utilities Division ("Staff") and the Company participating. During the procedural conference,  
7 procedural timeframes were discussed and the parties agreed that consolidation of the two dockets  
8 was appropriate.

9 On July 23, 2009, by Procedural Order, the above-captioned dockets were consolidated; the  
10 hearing date was set for September 3, 2009; public notice was ordered; and other procedural  
11 deadlines were established.

12 On August 7, 2009, the Company filed certification that public notice of the applications and  
13 hearing date had been mailed to each of the Company's customers on August 7, 2009, and that a copy  
14 of the notice had been posted in the Company's offices.

15 On August 20, 2009, Staff filed a Staff Report recommending approval of the emergency rate  
16 increase and approval of the financing application, subject to Staff's conditions.

17 On August 25, 2009, Park Water filed a Response to the Staff Report. The response states that  
18 the Arizona Department of Environmental Quality ("ADEQ") will not issue an Approval to Construct  
19 ("ATC") for improvements to the Company's water system unless the proposed improvements have  
20 been approved by an engineer. Park Water requested authority to increase the amount in its finance  
21 application by \$17,000, to include the cost for an engineer.

22 On September 3, 2009, a full public hearing was held as scheduled before a duly Authorized  
23 Administrative Law Judge ("ALJ") of the Commission at its offices in Phoenix, Arizona. Staff  
24 appeared through counsel and presented evidence and testimony. Ms. Patricia O'Connor, President  
25 of Park Water, appeared on behalf of the Company and presented testimony. During the hearing,  
26 discussions were held regarding whether additional notice was needed, as the Company had  
27 requested to amend its finance application to include the additional \$17,000 for an engineer. Staff  
28 testified that the engineering cost requested by Park Water is reasonable and customary. Staff

1 recommends granting Park Water authority to finance \$208,873 through WIFA. Staff's amount  
 2 includes \$169,819 for improvements to the system; \$22,054 for emergency well repair; and \$17,000  
 3 to cover the Company's engineering costs. Staff further recommends an emergency interim  
 4 surcharge to cover the water hauling costs, and a separate future surcharge to cover the WIFA loan  
 5 payments.

6 On September 4, 2009, by Procedural Order, a second day of hearing was scheduled for  
 7 September 24, 2009, and public notice was ordered. Staff was also directed to file a supplemental  
 8 document discussing some the issues raised during the first day of hearing.

9 On September 10, 2009, Applicant filed a Notice of Mailing and Posting, showing notice of  
 10 the applications and the second hearing date were mailed to the property owners in the Company's  
 11 service area and posted in the Company's offices.

12 On September 16, 2009, Staff filed a supplemental document discussing various issues raised  
 13 during the first day of hearing.

14 On September 24, 2009, the public hearing in this matter was re-convened. Staff appeared  
 15 through counsel and presented testimony. Ms. O'Connor appeared telephonically and presented  
 16 testimony. No members of the public appeared to give public comment. During the hearing, Staff  
 17 was directed to file late-filed exhibits related to its testimony.

18 On September 24, 2009, Staff docketed a late-filed exhibit.

19 On September 30, 2009, Staff docketed a second late-filed exhibit.

20 After receipt of the late-filed exhibits, the matter was taken under advisement pending  
 21 submission of Recommended Opinion and Order to the Commission.

22 \* \* \* \* \*

23 Having considered the entire record herein and being fully advised in the premises, the  
 24 Commission finds, concludes, and orders that:

### 25 FINDINGS OF FACT

- 26 1. Pursuant to authority granted by the Commission, Park Water is an Arizona public  
 27  
 28

1 service corporation engaged in the business of providing water service to approximately 125<sup>1</sup>  
2 residential customers in a service area located nine miles south of Florence, Arizona, in Pinal County.

3 2. On June 26, 2009, Park Water filed an application with the Commission requesting  
4 approval to obtain a loan from WIFA in the amount of \$169,817 to deepen the Company's existing  
5 well and to upgrade its water pressure system.

6 3. On June 29, 2009, Park Water filed a second application with the Commission  
7 requesting an emergency interim rate surcharge due to a recent water outage, which required the  
8 Company to incur costs of \$28,244 related to cleaning the well, repairing the pump, and hauling  
9 water to customers during the outage. The Company's application indicates that due to its narrow  
10 operating margin, and its need to upgrade its existing well, storage, and distribution system, an  
11 interim monthly surcharge is needed.

12 4. Pursuant to a Procedural Order issued July 23, 2009, notice of the Company's finance  
13 and emergency rate surcharge applications was ordered and the dockets were consolidated. The  
14 Commission received one customer comment in opposition to the proposed interim rate surcharge.

15 5. On August 20, 2009, Staff filed a Staff Report recommending approval of the  
16 Company's applications, subject to Staff's adjustments to the proposed interim emergency rate  
17 surcharge.

18 6. In response to the Staff Report, Park Water filed an amendment to its finance  
19 application requesting to include an additional \$17,000 to cover the engineering costs associated with  
20 the system improvement projects. The amendment further stated that WIFA requires approval by an  
21 engineer before an ATC can be issued.

22 7. Pursuant to a Procedural Order issued September 4, 2009, additional notice was  
23 ordered regarding the requested additional engineering cost. On September 10, 2009, the Company  
24 docketed certification that notice had been provided via first-class mail to all its customers regarding  
25 the additional \$17,000 amount being requested. No customer comments were filed regarding the  
26 second notice.

27 \_\_\_\_\_  
28 <sup>1</sup> According to the Company's 2008 Annual Report, the Company served 140 customers. The Company's witness testified that Park Water currently has 125 customers.

1 second notice.

2 8. Park Water is operating under rates authorized in Commission Decision No. 67165  
3 (August 10, 2004).

4 **Emergency Rate Application**

5 9. Ms. Patricia O'Connor, sole owner and president of Park Water, stated that the  
6 Company experienced a loss in production at its well source in April 2009, and it was determined that  
7 the production loss was not related to a mechanical failure, but that the water table in the area had  
8 dropped. (Tr. at 8) Ms. O'Connor further stated that the Company's production problems are  
9 exacerbated because the monastery located adjacent to Park Water uses large quantities of water; the  
10 monastery's well is drilled at 1,500 feet compared to Park Water's well at 780 feet; and the rate of  
11 water drawn down by the monastery does not allow enough time for the aquifer to recover. (Id.) Ms.  
12 O'Connor stated that she believes the monastery is drawing out as much as 1 million gallons of water  
13 per day, compared to 1 million gallons per month being used by Park Water to service 125 families.  
14 (Tr. at 7)

15 10. The Company's emergency rate application states it has incurred \$28,244 in cost  
16 related to repairing the well, and hauling water during the Company's recent water outage. Ms.  
17 O'Connor testified that the Company has not been able to pay the vendors for the repairs made to the  
18 system. (Tr. at 9) She testified that she has received a letter from one of the vendors who says he  
19 dropped everything and moved his equipment to Park Water's well during the outage to make the  
20 repairs, but he still has not been paid. (Tr. at 18) Ms. O'Connor also expressed concern that she has  
21 been receiving calls from all of the repair vendors and they all want to get paid. (Id.) She testified  
22 that the Company is unable to pay the vendors for the repairs. (Tr. at 21)

23 11. Ms. O'Connor testified that currently Park Water customers have water running from  
24 their taps because the Company is running one well at a time, and allowing one well to recharge,  
25 while the other one is in use. (Tr. at 21)

26 12. According to the Staff's Engineering Report, Park Water's current water system  
27 consists of two wells, with a total production capacity of 175 gallons per minute ("GPM"); three  
28 storage tanks, with a total storage capacity of 52,000 gallons; three booster systems; and a

1 distribution system serving approximately 125 service connections.

2 13. Staff determined that Park Water has a peak day demand of 0.45 GPM per connection  
3 and uses 515 gallons per day ("GPD") per connection.<sup>2</sup> Based on the above information, Staff  
4 concluded that Park Water has the capacity to serve approximately 390 connections when using both  
5 wells, and without using its largest well, the system could adequately serve 165 connections during  
6 peak demand. Further, Park Water's storage capacity of 52,000 gallons can adequately serve up to  
7 approximately 100 connections. (SER at 2)

8 14. Staff's engineering witness testified that Park Water's system has inadequate storage  
9 capacity to serve its current customers due to the dropping water table in the service area. (Tr. at 24)  
10 Staff's witness testified that Park Water's main well has a production of 100 GPM; the secondary  
11 well has a production of 75 GPM; and during the recent water outage production fell to a total of 40  
12 GPM for both wells. (Id.) Staff's witness stated that during the water outage both motor pumps in  
13 Park Water's two wells burned out and had to be replaced. (Id.) The witness further stated that Park  
14 Water had to haul 50,000 gallons of water during the outage. (Id.)

15 15. According to the Staff Report, Park Water incurred the following costs during its  
16 recent water outage:

17	1. Water Hauling (50,000 gallons)	\$ 6,190
	2. North Well (primary well)	
18	a. Video survey & cleaning well casing	\$ 8,450
	b. Installed a new 20-Hp pump motor	\$ 8,338
19	3. South Well- new 15-Hp pump motor	<u>\$ 5,266</u>
20	Total:	\$28,244

21 16. Staff concluded that the emergency repair costs are reasonable.

22 17. Staff's engineering witness explained that the water table for an aquifer will drop  
23 depending on how many wells are drawing from the aquifer. (Tr. at 29) The witness further  
24 explained that in this case there is a large monastery, with palm trees and greenery scattered  
25 throughout, and it appears the monastery is pumping a lot of water, and it is affecting the wells in the  
26 surrounding area. (Id.) Staff's witness testified that although the monastery is not a Commission  
27

28 <sup>2</sup> Based on Park Water's 2008 Water Use Data Sheet.

1 regulated entity, it would still need to meet Arizona Department of Water Resources ("ADWR")  
2 requirements because, like Park Water, the monastery is located within the Pinal County Active  
3 Management Area ("AMA"). (Id.)

4 18. Based on Staff's review, Staff concluded that the steps taken by Park Water during its  
5 recent water outage were reasonable and prudent under the circumstances. (Id.) Further, Staff agrees  
6 that the Company needs to deepen its well due to a dropping water table in the area. (Tr. at 27)

7 19. Park Water asserts that an emergency situation exists and that Park Water should be  
8 authorized to implement an interim emergency surcharge rate of \$16.81 to recover costs of \$28,244  
9 associated with repairing the wells, replacing the well pumps, and hauling water during the outage.<sup>3</sup>

10 20. According to Attorney General Opinion No. 71-17, interim or emergency rates are  
11 proper when either all or any of the following conditions occur:

12 a. When sudden change brings hardship to a Company;

13 b. When the Company is insolvent; or

14 c. When the condition of the Company is such that its ability to maintain service  
15 pending a formal rate determination is in serious doubt.<sup>4</sup>

16 21. Staff concurs with the Company that an emergency situation exists. According to  
17 Staff, the Company's annual operating income for 2008 was approximately \$4,152 plus depreciation  
18 expenses of \$1,886 for a total of \$6,038. Based on Staff's review of the Company's annual operating  
19 income, Staff determined that the Company's annual cash flow is insufficient to cover the \$28,244 in  
20 expenses related to water hauling and well repairs during the recent outage. In its review, Staff also  
21 took into consideration Park Water's inability to pay the vendors for repairs and water hauling during  
22 the recent outage from its operating income. Staff concludes that Park Water's situation meets the  
23 first prong of the Attorney General's Opinion, at a minimum, because the expenses related to the  
24 water outage have created a serious financial hardship for the Company. Although the Attorney  
25 General's Opinion requires only that one of the three criteria be met to constitute an emergency, it  
26 appears likely that Park Water's current operational situation would also satisfy the other two

27 <sup>3</sup> Applicant's rate application.

28 <sup>4</sup> Affirmed in *Scates v. Arizona Corporation Commission*, 118 Ariz. 531 (CT. App. 1978) and in *Residential Utility Consumer Office v. Arizona Corporation Commission*, 199 Ariz. 588 (2001).



1 conditions. We agree with Staff that the Company's current situation constitutes an emergency under  
2 Attorney General Opinion No. 71-17.

3       22. Staff recommends the Commission authorize Park Water to implement an emergency  
4 rate surcharge in the amount of \$4.13<sup>5</sup> to cover the water hauling costs (\$6,190) associated with the  
5 recent outage, instead of the Company's proposed surcharge of \$16.81 to cover the water hauling and  
6 well repair costs. Staff's witness testified that Staff believes the higher surcharge would be overly  
7 burdensome for ratepayers and that Staff also took into consideration the general economic climate in  
8 making its determination. (Tr. at 36, 70)

9       23. Under Staff's proposed emergency rate surcharge, the water hauling cost of \$6,190  
10 would be paid over a 12-month period.<sup>6</sup> Staff testified that it believes including the entire \$28,244 in  
11 repair costs incurred during the emergency outage would result in a monthly interim surcharge of  
12 approximately \$18.83 over a 12-month period. (Tr. at 65) According to Staff's late-filed exhibit, Park  
13 Water has only 5/8" x 3/4" meter size customers; the monthly average for gallons sold is 8,000  
14 gallons; and the average customer bill is approximately \$44.12.<sup>7</sup> Including the entire \$28,244 amount  
15 in an interim monthly surcharge, would result in the average Park Water customer paying a monthly  
16 surcharge of \$18.83, plus a monthly bill of \$44.12, for a total of \$62.95 over a 12-month period. (Tr.  
17 at 66)

18       24. In order to mitigate the rate effect on customers, Staff recommends separating the cost  
19 of the water hauling and the well repairs. Under Staff's proposal, the well repairs costs (\$22,054)  
20 would be included in the Company's WIFA loan application, and the Company would be required to  
21 implement a WIFA loan surcharge mechanism to recover costs incurred for the well repairs, as well  
22 as the costs for the upgrades to the system (See Finance Application Discussion Below). Staff's  
23 proposal would result in the well repair vendors being left unpaid until the WIFA loan closes and the  
24 Commission approves a WIFA loan surcharge.

25 \_\_\_\_\_  
26 <sup>5</sup> Staff initially recommended a surcharge of \$3.68 based on 140 Park Water customers. Staff subsequently adjusted its  
27 recommendation based on the Company's testimony that Park Water currently has 125 customers. (Staff's Late-filed  
Schedule CSB-1)

28 <sup>6</sup> Staff's proposal would generate additional monthly revenues of \$516, which would be used to reduce the water hauling  
debt over 12-months. ( $\$516 \times 12 = \$6192$ )

<sup>7</sup> A review of Staff's calculation shows the average Park Water customer's bill is currently \$43.68 monthly.

25. During the proceedings, Ms. O'Connor expressed concern that the vendors have not been paid for work related to the recent outage. (Tr. at 11) She stated that the vendors dropped whatever they were working on at the time of the emergency and came to the Company's rescue because Park Water customers could not flush their toilets or take showers. (Id.) She further stated that she is concerned that if another emergency water outage occurs, the vendors may not be willing to do the work because they haven't been paid. (Id.)

26. Staff's witness testified that under Staff's recommendation, Park Water would be able to implement the water hauling surcharge immediately following the effective date of a Decision in this matter. Staff's witness further testified that based on information obtained from the WIFA loan website, once the Commission approves Park Water's financing application, Park Water will have to request a Project Finance Application ("PFA") from WIFA and submit the completed PFA to WIFA eight weeks prior to its semi-monthly board meeting.<sup>8</sup> From that point, the WIFA loan application process could take up to six months before the loan closes.<sup>9</sup> Staff explained that once the WIFA loan closes, Staff recommends Park Water file an application with the Commission for the WIFA loan surcharge, and Staff believes that process could take an additional 60 days.

27. Based on Staff's testimony, the proposed timeline for Park Water to implement the WIFA loan surcharge and draw down funds to pay the well repair vendors would result in the well repair vendors being paid in January 2011.

(See Exhibit A, attached hereto and incorporated herein)

28. Staff further recommends that:

- a. The interim surcharge rate be subject to refund pending the decision resulting from the permanent rate increase case required to be filed in this proceeding;
- b. Park Water post a bond or irrevocable sight draft letter of credit in the amount of \$6,192 to ensure there is sufficient money available to refund customers if the Commission determines in the permanent rate case that the water hauling surcharge was not needed or was too large. In the alternative, if the Commission decides to choose a minimal bond, Staff recommends Park Water

<sup>8</sup> According to Staff's late filed exhibit, the next WIFA semi-monthly board meeting will be held the 3<sup>rd</sup> Wednesday in December 2009, and Park Water would have needed to submit its PFA by October 21, 2009, in order to have its PFA considered for the December 2009 board meeting. Therefore, based on the WIFA loan application timeline, the earliest Park Water's PFA can be considered by WIFA is at its February 2010 board meeting. The timeline shows no board meeting being held during the month of January.

<sup>9</sup> Staff's late-filed exhibit filed September 16, 2009.

- 1 post a cashier's check with the Commission;  
 2 d. Park Water file with Docket Control, as a compliance item in this Docket,  
 3 within 30 days of the effective date of this Decision, a revised rate schedule  
 4 reflecting the emergency interim rate increase; and  
 e. Park Water notify its customers of the revised emergency rate, and effective  
 date, in a form acceptable to Staff, by means of an insertion in the Company's  
 next regularly scheduled billing.

### 5 **Finance Application**

6 29. According to Park Water's finance application, the Company proposes deepening its  
 7 North Well from its current 780-foot depth to 1,500 feet and rehabilitating the North Well booster  
 8 system. The amended finance application requests authorization to obtain a WIFA loan in the  
 9 amount of \$186,819, which includes \$169,819 for capital improvements to the system and \$17,000 to  
 10 hire an engineer. The Company's proposal would result in annual WIFA loan payments totaling  
 11 \$14,179, and a estimated monthly WIFA surcharge of \$9.42 for 5/8 x 3/4 meter size customers.

12 30. Staff reviewed the proposed capital improvements and the cost estimates and  
 13 concluded they are reasonable. However, Staff did not make any "used and useful" determination for  
 14 the proposed improvement plant items and no particular treatment should be inferred for rate-making  
 15 or rate base purposes in the future.

16 31. Staff recommends granting Park Water authorization to obtain a 20-year amortizing  
 17 WIFA loan, at an interest rate of 4.5 percent, for a total amount of \$208,873. Under Staff's proposal,  
 18 the WIFA loan would include \$169,819 for capital improvements; \$22,054 for emergency well  
 19 repairs; and \$17,000 for engineering costs, for a total of \$208,873. Staff based its recommendation to  
 20 grant authorization for the WIFA loan on the Company's lack of earnings and operating cash flow to  
 21 meet Park Water's proposed long-term debt obligation, as well as the circumstances outlined in Park  
 22 Water's emergency rate application. Staff recommends implementation of a surcharge recovery  
 23 mechanism to collect funds to service the WIFA loan payments.

24 32. Under Staff's proposal, annual WIFA loan payments total \$15,853, resulting in an  
 25 estimated monthly surcharge of \$10.57 for 5/8" x 3/4" meter size customers.

26 33. Staff further recommends that:

- 27 a. Park Water's WIFA loan surcharge be calculated based upon the actual amount  
 28 of the WIFA loan and the actual number of customers at the time the WIFA  
 loan closes;

- b. The WIFA loan surcharge be implemented only after Park Water closes on the WIFA loan;
- c. Commission approval of Park Water's request for authorization to incur long-term debt include a WIFA loan recovery surcharge mechanism to enable the Company to meet the principal and interest obligation on the proposed WIFA loan;
- d. Park Water file with the Commission a WIFA loan surcharge tariff application;
- e. Park Water use the methodology described in Staff's Schedule CSB-4 to calculate the revenue needed to meet its principal and interest obligation on the WIFA loan;
- f. Park Water file in this docket a WIFA loan surcharge application within 60 days of the WIFA loan closing;
- g. Any Commission Decision approving the WIFA loan and surcharge be rescinded if Park Water has not drawn funds from the loan within one year from the date of the Decision in this proceeding; and
- h. Park Water file with the Commission a permanent rate case no later than April 30, 2010, using a 2009 calendar test year.

#### Other Issues

34. According to ADEQ, Park Water is delivering water that meets water quality standards required by the Arizona Administrative Code and Park Water has no reported deficiencies.<sup>10</sup>

35. The Commission's Utilities Division Compliance Section reported that Park Water has no delinquencies.

#### Analysis

36. Based on the testimony and evidence submitted, we find that Park Water lacks the revenue necessary to pay for the water hauling and well repair costs incurred during its recent water outage, without the implementation of an emergency interim rate surcharge; the costs incurred during the recent water outage have created a financial hardship for the Company; and the Company's concerns regarding its inability to pay for the repairs associated with the recent water outage are legitimate.

37. Park Water has an interest in paying down its debt to all the vendors who rendered services during the emergency water outage. Staff's proposal to implement an emergency interim rate of \$4.13 to only cover the water hauling costs does not fully address all of the costs incurred as a result of the emergency situation. As discussed in Finding of Fact No. 27, Staff's proposal will likely

<sup>10</sup> ADEQ Compliance Status Report, dated April 21, 2009.

1 result in the well repair vendors not being paid until January 2011. The length of time between when  
 2 the vendors rendered services and the time they will be paid, under Staff's proposal, could subject  
 3 Park Water to litigation by the well repair vendors, further exacerbating the Company's financial  
 4 problems. Staff's proposal could also hinder Park Water's ability to request services from these  
 5 vendors in the future, if they are needed, and could force Park Water to have to seek vendors located  
 6 farther away (i.e., Tucson, Phoenix) to make emergency repairs to the system, subjecting Park Water  
 7 customers to being without water for a longer period of time and possibly incurring additional  
 8 expense.

9       38. Based on the evidence and circumstances presented, we find that modifying Staff's  
 10 proposal to implement a \$12 monthly interim emergency surcharge is reasonable. A \$12 monthly  
 11 interim surcharge rate will allow Park Water to begin paying down its debts associated with the water  
 12 hauling and the well repairs costs incurred during the Company's recent water outage. The \$12  
 13 interim monthly surcharge will generate additional revenues in the amount of \$1,500 per month<sup>11</sup> that  
 14 Park Water will use to start to pay down the \$28,244 outstanding debt for the water hauling and the  
 15 well repairs. Park Water is directed to equally divide the monthly surcharge monies collected from  
 16 its customers between the water hauling, and two well repair vendors. Further, all interim surcharge  
 17 monies collected from Park Water customers shall be held in a separate interest bearing account and  
 18 Park Water shall file, with Docket Control, as a compliance item in this docket, a monthly financial  
 19 accounting showing the amount of surcharge monies collected, payments made to vendors, and the  
 20 outstanding balance owed to each vendor. Because the \$12 interim surcharge rate will generate  
 21 additional revenues totaling \$18,000, over a 12-month period, Park Water shall amend its WIFA loan  
 22 application to include the remaining balance<sup>12</sup> at the end of 12 months for the remaining water  
 23 hauling and well repair cost. This surcharge shall be subject to refund pending the outcome of the  
 24 permanent rate case to be filed under Staff's recommendation.

25       39. Regarding Park Water's finance application, we find that Staff's recommendations  
 26 should be modified to authorize Park Water to obtain a WIFA loan in the amount of \$197,063. The

27 \_\_\_\_\_  
 28 <sup>11</sup> \$12 (surcharge) x 125 (customers) = \$1,500.

<sup>12</sup> The approximate remaining balance of \$10,244.

1 WIFA loan amount will include \$169,819 for capital improvements; \$17,000 for engineering costs;  
2 and approximately \$10,244 for the remaining balance owed to the water hauling and well repair  
3 vendors.<sup>13</sup> Based on these figures, the estimated WIFA loan surcharge will be \$9.97 per month, per  
4 customer.

5 40. Based on the timeframe described in Exhibit A, we find that Staff's recommendation  
6 that "any Commission Decision approving Park Water's WIFA loan surcharge should be rescinded if  
7 funds have not been drawn on the loan within one year," should be modified to extend the timeframe  
8 to eighteen (18) months from the effective date of this Decision.

9 41. Park Water is directed to amend its WIFA loan application in accordance with the  
10 terms described herein. Further, because of Park Water's current financial situation, Park Water  
11 should be required to post a bond with the Commission in the form of a cashier's check in the amount  
12 of \$10 prior to implementing the emergency surcharge.

13 42. Staff's recommendations, as modified herein, are reasonable and should be adopted.

#### 14 CONCLUSIONS OF LAW

15 1. Park Water is a public service corporation within the meaning of Article XV of the  
16 Arizona Constitution and A.R.S. §§ 40-250, 40-251, and 40-302.

17 2. The Commission has jurisdiction over Park Water and of the subject matter of the  
18 applications.

19 3. Notice of the applications was provided in the manner prescribed by law.

20 4. Park Water is facing an emergency within the definition set forth in Attorney General  
21 Opinion No. 71-17.

22 5. The standard for approval of a request for interim rate relief requires the existence of  
23 an emergency; the posting of a bond by the utility company; and subsequent filing of a permanent  
24 rate case.

25 6. Approval of Park Water's application for interim rate relief, as described herein, is  
26 consistent with the Commission's authority under the Arizona Constitution, ratemaking statutes, and  
27

28 <sup>13</sup> Staff testified that it verified with WIFA that the water hauling and well repair cost could be included in the WIFA loan. (Tr. at 39)

1 applicable case law.

2 7. The request for interim emergency rate relief is just and reasonable and should be  
3 collected by means of the surcharge outlined herein and shall be added to each customer's monthly  
4 bill for a period of 12 months, beginning one month after the effective date of the Decision in this  
5 matter.

6 8. The financing approved herein is for lawful purposes, within Park Water's corporate  
7 powers, is compatible with the public interest, with sound financial practices, and with the proper  
8 performance by Park Water of service as a public service corporation, and will not impair Park  
9 Water's ability to perform that service.

10 9. The financing approved herein is for the purposes stated in the application and is  
11 reasonably necessary for those purposes, and such purposes are not, wholly or in part, reasonably  
12 chargeable to operating expenses or to income.

13 10. The rates and charges established herein are just and reasonable and in the public  
14 interest.

15 11. Park Water shall file with the Commission, no later than April 30, 2010, a permanent  
16 rate case, using a test year ending December 31, 2009.

17 12. Staff's recommendations, as modified herein, are reasonable and should be adopted.

18 **ORDER**

19 IT IS THEREFORE ORDERED that the emergency rate application of Park Water Company,  
20 Inc. for an emergency interim surcharge is hereby approved to the extent described herein.

21 IT IS FURTHER ORDERED that Park Water Company, Inc. shall implement an emergency  
22 interim surcharge in the amount of \$12 per customer, for a period of 12 months, beginning the first  
23 month after Park Water has notified its customers of the emergency interim surcharge approved  
24 herein.

25 IT IS FURTHER ORDERED that Park Water Company, Inc. shall maintain all monies  
26 collected from the emergency interim surcharge in a separate interest bearing account.

27 IT IS FURTHER ORDERED that Park Water Company, Inc. shall file, beginning January 1,  
28

2010, with Docket Control, as a compliance item in this docket, a monthly financial accounting showing the amount of surcharge monies collected from its customers, payments made to water hauling and well repair vendors, and the outstanding balance owed to each vendor.

IT IS FURTHER ORDERED that the emergency surcharge approved herein shall be interim and subject to refund in Park Water Company, Inc.'s permanent rate application proceeding required as a condition of approval of the emergency surcharge.

IT IS FURTHER ORDERED that Park Water Company, Inc. shall file on or before the first day of the month it is to begin collecting the emergency surcharge, a tariff authorizing Park Water to collect the \$12 emergency surcharge rate approved herein, in a form acceptable to Staff.

IT IS FURTHER ORDERED that Park Water Company, Inc. shall file with Docket Control, as a compliance item in this docket, a revised rate schedule reflecting the emergency rate increase, within 30 days of the effective date of this Decision.

IT IS FURTHER ORDERED that Park Water Company, Inc. shall, in a form acceptable to Staff, notify its customers of the emergency rate surcharge, by inserting the revised rate schedule in the Company's next regularly-scheduled billing.

IT IS FURTHER ORDERED that Park Water Company, Inc. shall, 15 days prior to implementing the emergency rate surcharge approved herein, post a bond with the Commission's Business Office, in the form of a cashier's check in the amount of \$10, with copies the cashier's check filed with Docket Control, as a compliance item in this docket.

IT IS FURTHER ORDERED that Park Water Company, Inc. shall file with the Commission, no later than April 30, 2010, an application for a permanent rate increase, with a test year ending December 31, 2009.

IT IS FURTHER ORDERED that Park Water Company, Inc. is hereby authorized to obtain a Water Infrastructure Finance Authority, 20-year amortizing loan in an amount not to exceed \$198,000, at the applicable Water Infrastructure Finance Authority interest rate the time the loan is closed.

IT IS FURTHER ORDERED that Park Water Company, Inc. is hereby authorized to engage in any transactions and to execute any documents necessary to effectuate the authorization granted



1 herein.

2 IT IS FURTHER ORDERED that such authority is expressly contingent upon Park Water's  
3 use of the proceeds for the purposes set forth in its application.

4 IT IS FURTHER ORDERED that approval of the financing set forth herein does not  
5 constitute or imply approval or disapproval by the Commission of any particular expenditure of the  
6 proceeds derived thereby for purposes of establishing just and reasonable rates.

7 IT IS FURTHER ORDERED that Park Water Company, Inc. shall file with Docket Control,  
8 as a compliance item in this docket, copies of all executed financing documents setting forth the  
9 terms of the financing, within 30 days of obtaining such financing.

10 IT IS FURTHER ORDERED that Park Water Company, Inc. shall, within 30 days of the  
11 effective date of this Decision, amend its Water Infrastructure Finance Authority loan application, to  
12 comply with the terms described herein.

13 IT IS FURTHER ORDERED that Park Water Company, Inc. shall, within 30 days of the  
14 closing of its loan with the Water Infrastructure Finance Authority, file with the Commission a Water  
15 Infrastructure Finance Authority loan surcharge recovery mechanism application, using the  
16 methodology described in Staff's Schedule CSB-4.

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1 IT IS FURTHER ORDERED that the authorization approved herein for Park Water  
2 Company, Inc. to obtain a Water Infrastructure Finance Authority loan in an amount not to exceed  
3 \$198,000, shall be null and void if funds from the loan are not withdrawn within eighteen (18)  
4 months from the effective date of this Decision.

5 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

6 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

7  
8 CHAIRMAN

COMMISSIONER

9  
10 COMMISSIONER

COMMISSIONER

COMMISSIONER

11 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,  
12 Executive Director of the Arizona Corporation Commission,  
13 have hereunto set my hand and caused the official seal of the  
14 Commission to be affixed at the Capitol, in the City of Phoenix,  
15 this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

16 ERNEST G. JOHNSON  
17 EXECUTIVE DIRECTOR

18 DISSENT \_\_\_\_\_

19 DISSENT \_\_\_\_\_  
20 YBK:db

1 SERVICE LIST FOR:

PARK WATER COMPANY, INC.

2 DOCKET NOS.:

W-02353A-09-0328 and W-02353A-09-0329

3

4 Patricia O'Connor, President  
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P.O. Box 16173  
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6 Janice Alward, Chief Counsel  
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7 ARIZONA CORPORATION COMMISSION  
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9 Steven Olea, Director  
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10 ARIZONA CORPORATION COMMISSION  
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# Exhibit "A"

DOCKET NO. W-02353A-09-0328 ET AL.

## Proposed Timeline for WIFA Loan Implementation

2009		2010												2011	
NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	
	<div><div>Commission approves finance application.</div><div>Park Water submits its PFA* to WIFA by Dec 30, 2009.</div></div>		<div>Feb 17, 2010, WIFA reviews Park Water's PFA.</div>						<div>Feb 17, 2010, PFA moves through WIFA process. Approval granted in August, 2010.</div>		<div>Park Water files WIFA loan surcharge application with Commission.</div>	<div>Staff reviews WIFA loan surcharge application.</div>	<div>Commission hears and approves the WIFA loan surcharge.</div>	<div>Park Water notifies customers of approved surcharge.</div>	<div>WIFA loan surcharge is implemented and the well repair vendors are paid.</div>

\* PFA = Project Finance Application

DECISION NO. \_\_\_\_\_